FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

First Appeal No. 633/2002
(State of Mah. VERSUS Smt. Anusayabai Vishwanath Bhaturkar)
and
First Appeal No.38/2003
(State of Mah. VERSUS Smt. Laxmibai Sakharam Kale)
and
First Appeal No.474/2003
(State of Mah. VERSUS Sadashiv Krishnaji Dhote through L.Rs.)

Appeal
Application No.
Writ petition

District :
of 200

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

Mrs. Rachana Wasnik, A.G.P. for appellant in F.A.No.633/02
Mr. D.B. Patel, A.G.P. for appellant in F.A. No. 38/03.
Mrs. T.D. Khade, A.G.P. for appellant in F.A. No. 474/03.

CORAM : Smt. Vasanti A. Naik, J.
DATED : 17th August, 2007.

Since the facts involved in these first appeals are common, these first appeals are heard together and are being disposed of by this common order.

A few facts giving rise to these three first appeals are stated thus:

The lands belonging to the respondents in these first appeals were acquired by the State of Maharashtra for construction of Tanks at Pimpri Gaoli and Awar. Section 4 notification was issued for acquiring the lands involved in First Appeal No. 474/2003, on 5/7/1990, and in other two appeals, on 19/9/1993. All the three lands are situated at village Awar. The Land Acquisition Officer passed

the Award and granted meager compensation. Hence, the respondents filed reference applications under Section 18 of the Land Acquisition Act before the Collector, Buldhana, who, in turn, referred the matter to the Civil Judge, Senior Division, Khamgaon. The Land Acquisition Cases were registered and by the judgments dated 27/11/1995 and 17/6/2002, the reference Court partly allowed the reference application and granted compensation @ Rs. 60,000/- per hectare. The State has challenged the aforesaid judgments in these three first appeals.

All the three respondents entered the witness box to point out that the lands were fertile lands and the respondents were taking crops like Jowar, Cotton, Tur, Wheat, etc. from the lands in question. According to the respondents, the market value of the land was Rs. 70,000/- to Rs. 80,000/- per acre in the year 1990. The respondents produced 7/12 extracts to prove the fertility of the lands and the yields taken from the lands in question. The respondents further produced the extract of Sale Index to show that the market value of the land was much more as the lands from Sutala, Januna, Ghatpuri and Parkhed were sold at much higher rates. The respondents also examined some other witnesses to prove that the market value of the lands was much more than what had

been granted by the Land Acquisition Officer and the same was nearly Rs. 2 lacs per hectare in the year 1990. The respondents also produced documentary evidence in the form of Award which was passed by the reference Court in Land Acquisition Case Nos. 74/1992 and 5/1995 which were decided by the reference Court on 20/4/1996 and 24/1/2002. The reference Court considered the fact that in those reference cases, the reference Court had granted compensation @ Rs. 60,000/- per hectare and hence the respondents were entitled to compensation at the same rate. In one of the Land Acquisition cases, the respondents produced the copy of the judgment passed by this Court in First Appeal No. 8/1984 whereby this Court had enhanced the compensation payable to the claimants therein, by granting it @ Rs.50,000/- per hectare though the Section 4 notification was issued in the year 1978. Thus, relying on the judgment passed by the reference Court in the earlier Land Acquisition Cases as also quality and potential value of the lands, the reference Court granted the compensation @ Rs.60,000/- per hectare.

The reference Court had rightly discarded the extract of Sale Index and the other sale instances which were produced by the respondents in respect of the sale of lands from Sutala, Januna, and Ghatpuri as, according to the reference Court,

these lands were in the close proximity of Khamgaon and were situated on national highway. The reference Court considered the fact that village Vihigaon was situated in the close proximity of the acquired lands and since the reference Court as well as this Court had granted compensation for the lands at Vihigaon @ Rs. 50,000/- and Rs. 60,000/- per hectare, the respondents were also entitled to seek compensation @ Rs. 60,000/- per hectare. The approach of the reference Court in relying on the judgment passed by this Court in First Appeal No. 8/1984 is extremely just and reasonable. The reference Court has rightly considered the judgment passed in First Appeal No. 8/1984 where lands of village Vihigaon were acquired in view of the notification issued in the year 1978 and the compensation was granted @ Rs. 50,000/- per hectare. The reference Court further considered the fact that there was much rise in prices of lands and since this Court had held that the claimants in First Appeal No. 8/1984 were entitled for compensation at Rs. 50,000/- per hectare for the lands acquired in the year 1978, it was necessary to grant compensation to the claimants herein @ Rs. 60,000/- per hectare. It is conspicuous to note that the lands involved in the First Appeal No. 8/1984 were acquired in the year 1978 and the lands in the present cases are acquired by the

notifications issued in the year 1990 and 1993. It, therefore, cannot be said that the reference Court committed an error in granting the compensation @ Rs. 60,000/- per hectare. In fact, the reference Court granted only Rs. 10,000/- more for each hectare, though the Section 4 notifications were issued in this case after a lapse of 12 years and 15 years, after the lands in First Appeal No.8/1984 were acquired in the year 1978. Thus, the reference Court rightly considered the earlier judgment passed by the reference Court as also the High Court to determine the market value of the lands. I find no fault whatsoever in the approach of the reference Court in arriving at the market value of the acquired lands. The principles laid down in Section 23 of the Land Acquisition Act have been followed by the reference Court while computing the compensation in these three cases.

There is no scope whatsoever for interfering with the judgment passed by the reference Court in these three first appeals.

For the reasons aforesaid, all the three first appeals are dismissed with no orders as to costs.

JUDGE

RMP